

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WANDA WATSON, individually and on
behalf of all others similarly
situated,

Plaintiff,

-v-

KELLOGG SALES COMPANY,

Defendant.

19cv1356(DLC)

ORDER

USDC SDNY
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ELECTRONICALLY FILED
DOC #
DATE FILED: 10/15/19

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DENISE COTE, District Judge:

A conference was held in the above-captioned case on October 11, 2019. For the reasons stated on the record, it is hereby

ORDERED that defendant's motion to dismiss is denied with respect to plaintiff's claims that defendant's "Grahams Crackers" label is misleading in violation of N.Y. Gen. Bus. Law §§ 349, 350 and breaches an express warranty in violation of N.Y. U.C.C. § 2-313.

IT IS FURTHER ORDERED that defendant's motion to dismiss is granted with respect to plaintiff's claims that defendant's "Honey" label is misleading in violation of N.Y. Gen. Bus. Law §§ 349, 350 and breaches an express warranty in violation of N.Y. U.C.C. § 2-313.

IT IS FURTHER ORDERED that defendant's motion to dismiss is granted with respect to plaintiff's following claims as to defendant's "Grahams Cracker" and "Honey" labels: negligent misrepresentation, violation of the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301, et seq., fraud, unjust enrichment, and breach of implied warranty of merchantability. Defendant's motion to dismiss plaintiff's claim for injunctive relief also is granted.

IT IS FURTHER ORDERED that the parties shall comply with their Rule 26(a)(1), Fed. R. Civ. P., initial disclosure obligations by **October 25, 2019**.

IT IS FURTHER ORDERED that this case will be referred to mediation to occur in **January 2020**. The Clerk of Court will contact the parties when a mediator has been selected.

IT IS FURTHER ORDERED that all fact discovery must be completed by **March 6, 2020**.

IT IS FURTHER ORDERED that plaintiff's identification of experts and disclosure of expert testimony conforming to the requirements of Rule 26(a)(2)(B), Fed. R. Civ. P., must occur by **March 20, 2020**. Defendant's identification of experts and disclosure of expert testimony must occur by **April 17**. All discovery must be completed by **May 8**.

IT IS FURTHER ORDERED that plaintiff's motion for class certification shall be served by **March 20, 2020**. Any opposition shall be served by **April 17**. Any reply shall be served by **May**

8. At the time any reply is served, plaintiff shall supply two courtesy copies of all motion papers to Chambers by mail or delivery to the United States Courthouse, 500 Pearl Street, New York, New York.

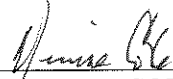
IT IS FURTHER ORDERED that any motion for summary judgment shall be served by **June 5, 2020**. Any opposition shall be served by **June 26**. Any reply shall be served by **July 10**. At the time any reply is served, the moving party shall supply two courtesy copies of all motion papers to Chambers by mail or delivery to the United States Courthouse, 500 Pearl Street, New York, New York.

In the event no motion for summary judgment is filed, the Joint Pretrial Order must be filed by **June 5, 2020**. As described in greater detail in this Court's Individual Practices in Civil Cases, the following documents must be filed with the Pretrial Order: Voir Dire, Requests to Charge and a Memorandum of Law addressing all questions of law expected to arise at trial. Any responsive papers are due one week thereafter. In the event a party does not file a Memorandum of Law, a responsive Memorandum of Law should not be submitted unless in reply to an unanticipated legal argument in the other party's

Memorandum of Law. Counsel will provide the Court with two (2) courtesy copies of all pretrial documents at the time of filing.

SO ORDERED:

Dated: New York, New York
October 15, 2019



DENISE COTE
United States District Judge